HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 27757 of 2007

27.12.2007

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Between:

R.A. Dayanand

… Petitioner

AND

The Government of Andhra Pradesh,
through its Secretary,
Revenue Department,
Hyderabad & others.

… Respondents

Counsel for the petitioner : Sri Bankatlal Mandhani

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

O R D E R:

This writ petition is filed for a writ of mandamus to set aside notification dated 06.12.2007 and declaration dated 09.12.2007 issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') as illegal, arbitrary and without jurisdiction and contrary to orders dated 12.01.2005 and 27.09.2006 of respondent No.2.

Heard Sri Bankatlal Mandhani, learned counsel for the petitioner and learned Assistant Government Pleader for Land Acquisition.

Learned counsel for the petitioner contended that in pursuance of directions given by this Court on 17.07.2003 in Writ Appeal No. 1175 of 2003, respondent No.5 served form-A notice on the petitioner,

who, along with other people of the locality, in turn, represented to respondent Nos. 2 and 3 to reconsider the road widening programme. The learned counsel submitted that after considering the said objections, the Hon'ble Minister for Municipal Administration and Urban Development inspected road No.9 of Himayatnagar and issued written instructions on 12.01.2006, whereunder the width of the road is directed to be restricted from 50' to 40'. He also submitted that again on 27.09.2006, respondent No.2 passed order reiterating the said earlier order. The learned counsel submitted that in spite of the said written orders, respondent No.1 issued the impugned notification and declaration under Section 6. He submitted that the respondents have committed grave illegality in dispensing with enquiry under Section 5-A of the Act, thereby, denying the petitioner an opportunity of putting forth his objections.

I have considered the submissions of the learned counsel for the petitioner as also the learned Assistant Government Pleader. It is held by a plethora of judgments of the Apex Court and this Court that Section 5-A of the Act provides a valuable opportunity for the citizens to object to the proposed acquisition and that unless the purpose of acquisition is of so urgent in nature that it does not brook the delay of holding enquiry, the State and its officers are bound to hold enquiry under Section 5-A.

From a perusal of notification issued under Section 4(1), it is evident that the land is sought to be acquired for widening of road No.9 (Himayatnagar to Ashoknagar). In my considered opinion, the purpose is not so urgent in nature which should warrant the respondents to dispense with the holding of enquiry under Section 5-A, more so when valuable properties of the citizens will be required for carrying out the proposed purpose.

In this view of the matter, declaration dated 06.12.2007 issued under Section 6 of the Act is quashed. The respondents are directed to hold enquiry under Section 5-A of the Act by affording the petitioner and other similarly situated persons an opportunity of personal hearing before proceeding with the proposed acquisition.

The writ petition is accordingly partly allowed.

As a sequel to disposal of the writ petition, W.P.M.P.No. 36305 of 2007 filed by the petitioner for interim relief is dismissed.

C.V.NAGARJUNA REDDY, J

27.12.2007

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